A **Employstats** White Paper

Economic Damages in Injury and Wrongful Death Cases:

A Quick Introduction

Questions or comments:

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In injury and wrongful death litigation, economists are commonly asked to place a dollar value on the economic losses that were sustained by the plaintiff(s). Economists evaluate not only the economic losses stemming from the loss of earnings, but also those resulting from the reductions in their ability to perform non-labor market services such as taking care of their households. If allowed by the particular court, the mathematics and statistics-based models used by economists can also be used to assist the court in the valuation of issues involving the loss of enjoyment or the loss of life.

Regardless of the type of economic loss under investigation, the economic calculation involves three main parts. The first part involves determining what earnings support or non-labor market services that the injured or deceased person was capable of providing, had he or she not been injured. The actual determination of the pre-injury or pre-death earnings situation is made by examining factors such as the person's earnings history, level of educational attainment, and the labor market potential of similarly situated persons.

The second phase of the calculation involves determining the person's post-incident earnings capacity. Similarly, a determination concerning the non-labor market services that can be provided by the injured person is made during this portion of the damage calculation.

The third portion of the calculation generally involves determining the present value of the economic losses. This calculation involves determining how much money would have to be deposited in a safe investment today, or at the date of trial, to replace the dollar income the plaintiff or the family would have received over the relevant portions of the person's lifetime, had the incident not occurred. The amount to be deposited in a safe investment, such as a U.S. treasury security, is called the present value of the future stream of income.

The underlying premise in the present value calculation is that a dollar received tomorrow is worth less than a dollar received today, because a dollar received today can be invested, or deposited in a bank account today that will earn interest, until the time the money is needed. To calculate the present day value of the plaintiff's or deceased's economic damages, the economist uses actuarial tables, work life tables, and interest rate data.

Economic damage team

In practice, the actual economic damage calculation involves the work of several different types of professionals and expert witnesses. In many instances, the opinions of the different experts on the economic damage team will overlap. In other instances, the opinions of some of the experts will directly build upon the work of the other experts in the case. The typical team of professionals in an injury or death case is as follows:

Economist: Calculates the economic value of past and future economic losses. The economist may also calculate the value of household services, retirement plans, and employee stock options, as well as analyze damages mitigation, person-specific postinjury employability studies, and labor-specific employability studies.

Vocational Rehabilitation Expert: Determines the jobs a person can perform following an injury by reviewing the specific skills, knowledge, and abilities of the injured person. This individual generally works in conjunction with an economist to determine the future earnings capacity of the injured person.

Life Care Planner: Determines the type, duration, and cost of future medical needs. The life care planner works in conjunction with the economist to determine the future value of medical services, products, and equipment.

The steps of an economic loss calculation

Step 1: Collect information regarding the loss.

Step 2: Determine the pre-incident earnings situation.

Step 3: If the subject’s injury is not completely debilitating, determine the plaintiff’s current earnings capacity.

Step 4: Calculate the lost earnings and lost earnings capacity. Project how long the economic losses will continue into the future.

Step 5: For each year of future economic damages, calculate and discount earnings losses to “present value.”

Step 6 (as relevant): Adjust earnings losses by personal consumption expenditures and income taxes.

Step 7 (as relevant): Provide an economic valuation of lost household services production.

Step 8 (as relevant): Calculate the economic value of life, diminished life, and other non-wage-based economic damages.

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